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August 30, 1999

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Hon. Magalie Roman Salas
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AUG 30 1999

FCC MAIL ROOM

Re: In the Matter of Numbering Resource Optimization -
Docket No. 99-200; Connecticut Department of Public
Utility Control - Petition for Rulemaking to Amend the
Commission's Rule Prohibiting Technology-Specific or
Service-Specific Area Code Overlays, RM 9258;
Massachusetts Department of Telecommunications and
Energy - Petition for Waiver to Implement a Technology-
Specific Overlay in the 509, 617, 781 and 978 Area
Codes, NSD File No. L-99-17; California Public
Utilities Commission and the People of the State of
California - Petition for Waiver to Implement a
Technology-Specific or Service-Specific Area Code,
NSD File No. L-99-36

Dear Secretary Salas:

Enclosed are an original and four (4) copies of the Reply Comments of the New York State Department of Public Service in the above-captioned proceeding. A copy was also filed using the Commission's Electronic Comment Filing System and copies were sent to all parties on the attached service list.

Sincerely,

A handwritten signature in black ink that reads "Lawrence G. Malone".

Lawrence G. Malone
General Counsel

Enclosure
cc: All Parties

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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Technology-Specific or Service Specific)
Area Code Overlays)

Massachusetts Department of) NSD File No. L-99-17
Telecommunications and Energy Petition)
for Waiver to Implement a Technology-)
Specific Overlay in the 508, 617, 781)
and 978 Area Codes)

California Public Utilities Commission) NSD File No. L-99-36
and the People of the State of)
California Petition for Waiver to)
Implement a Technology-Specific or)
Service-Specific Area Code)

REPLY COMMENTS OF THE NEW YORK
STATE DEPARTMENT OF PUBLIC SERVICE

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REPLY COMMENTS OF THE NEW YORK
STATE DEPARTMENT OF PUBLIC SERVICE

INTRODUCTION AND SUMMARY

The reply comments of the New York Department of Public Service (NYDPS) will be confined to thousands-block number pooling, rate center consolidation, and mandatory ten-digit dialing.

The commenters on these three issues fall into two camps. One camp, comprising primarily the service providers, favors number administration measures that would minimize their own costs, such as using ten-digit dialing to augment the number supply and using rate center consolidation to relieve the demand for NXX codes. The other camp, primarily state regulators and

consumer groups, favors measures that would minimize burdens on consumers, such as using thousands-block pooling for achieving number inventory efficiencies.

As explained in our initial comments, thousands-block pooling is the most effective and least costly approach for improving number assignment efficiency. While some commenters raised the specter of significant implementation costs, none could provide concrete support for that claim. The comments support our conclusions, which we urge the Commission to adopt, that there are no significant additional costs associated with thousands-block pooling, and that all pertinent costs are already being recovered via number portability. Additionally, no specific barriers to immediate implementation of thousands-block pooling were identified in the comments. Accordingly, we urge immediate deployment of thousands-block number pooling.

The opponents of thousands-block pooling favor two alternatives, rate center consolidation and ten-digit dialing. While either of these might provide a brief respite from the need for area code relief, neither represents a long-term solution and both entail significant costs to the public, as detailed in our initial comments. No proponent of these measures has demonstrated that they would serve as a replacement for more efficient number assignment measures such as thousands-block pooling, nor significantly forestall area code relief requests if full NXX assignments continued. And no proponent has

demonstrated that either would be needed if thousands-block pooling were in place.

We urge the Commission to continue to leave rate center consolidation to the states. Although it can be a useful number conservation measure, its potential drawbacks require that it be used with care and assessed on a case-specific basis. It should not be a prerequisite to number pooling; and consideration of the underlying issue it poses--whether call rating can be decoupled from NXX assignment--should not delay the pursuit of other number conservation measures.

I. THOUSANDS-BLOCK POOLING WILL GREATLY INCREASE THE EFFICIENCY WITH WHICH NUMBERING RESOURCES ARE USED AND SHOULD BE PUT INTO PLACE WITHOUT DELAY

The benefits of thousands-block pooling and the manner in which it can and should be immediately effectuated are described in our initial comments.¹ Many carriers, though supporting pooling at least in principle, nevertheless suggest conditions that would delay and possibly preclude its introduction. The Commission should reject these proposed impediments and allow the states to immediately require thousands-block pooling.

¹ Pp. 10-16.

A. The Introduction of Pooling Need Not Await a Cost-Recovery Mechanism

Many carriers maintain that the deployment of pooling must be linked to provisions for recovering its costs.² We disagree.

First, as some parties note, local number portability (LNP) was deployed successfully without a cost recovery mechanism having previously been put into place. We see no reason why that experience could not be replicated here. If in some states there are additional costs associated with thousands-block pooling, a suitable recovery mechanism can be devised after deployment.

Nor are the costs of pooling likely to be large enough to require advance creation of a recovery mechanism. As California comments, the network infrastructure costs incurred to support both LNP and pooling are already being borne by the public directly through the LNP surcharge.³ Various commenters suggest increasing that surcharge to cover pooling costs;⁴ but they have not shown that any increase is needed to cover costs that are truly incremental to those recovered through the existing surcharge. Indeed, they have not even identified the additional activities that would be needed to deploy thousands-block pooling, suggesting that the incremental costs, if any, would be very small.

² E.g., SBC, p. 68.

³ California, pp. 28-29.

⁴ E.g., SBC, p. 88; Bell South, p. 25.

B. The Introduction of Pooling Need Not Await a Further Cost/Benefit Analysis

GTE proposes that pooling not be deployed until it has been subjected to a cost/benefit analysis.⁵ But there is no doubt that thousands-block pooling will delay the need to introduce new area codes in many areas and, in turn, forestall the exhaust of the North American Numbering Plan. The associated savings far outweigh the incremental costs of pooling, and, as Virginia aptly notes, further study of the effectiveness of number pooling "is a waste of time."⁶ To require that further study would simply delay the introduction of pooling and its associated benefits, to the detriment of all concerned. A cost/benefit analysis should not be required.

C. Pooling Should Be Deployed Immediately, Without Further Lead Time

Some carriers that support pooling nonetheless allege a need for a lengthy implementation period. SBC, for example, claims it will take as much as 12 to 15 months to update its system to accommodate pooling.⁷

While we cannot speak for the nation, these claims have absolutely no basis in New York. NYDPS began discussing pooling with the industry in October 1997; a number pooling steering committee has been working since December 1997; and pooling already has been introduced in New York City. Accordingly,

⁵ GTE, p. 40.

⁶ Virginia, p. 2.

⁷ SBC, p. 82.

adequate lead time has been provided, and further delay should not be countenanced.

II. RATE CENTER CONSOLIDATION, THOUGH POTENTIALLY USEFUL AS A NUMBER CONSERVATION MEASURE, RAISES NUMEROUS OTHER ISSUES AND SHOULD BE LEFT TO THE STATES' DISCRETION

A. The Benefits and Drawbacks of Rate Center Consolidation Require Judgments Best Made by the States

NYDPS recognizes the potential usefulness of rate center consolidation as a means for extending the lives of NXX codes in some situations. (Indeed, we are examining it ourselves and have requested comments from the industry on the subject.⁸) In contrast, however, to the parties who would pursue this remedy with insufficient regard for its collateral consequences,⁹ we continue to urge a course of action that recognizes the host of matters, mostly within the states' domain, that are implicated in any decision to consolidate rate centers. These matters include potential increases in some rates and bills; the prospect of customer confusion and the need to mitigate it through customer education programs; and various technical and operational issues, such as the effect of number consolidation on 911 services.

Issues such as these should continue to be dealt with by state commissions, which can consider local circumstances in

⁸ Case 96-C-1158 - New York City Area Codes Proceeding - Statewide Rate Center Consolidation Review, Letter from Lawrence G. Malone, General Counsel, and Allan H. Bausback, Acting Director, Communications Division (February 11, 1998).

⁹ See, e.g., Sprint, p. 22; Cablevision Lightpath, p. 7; Liberty Telecom, p. 3.

weighing the potential benefits and detriments of rate center consolidation. The Commission should reject any suggestion to remove this discretion from the states.

B. Rate Center Consolidation Should Not Be a Prerequisite to Number Pooling

Several carriers¹⁰ have called for making the consideration or implementation of rate center consolidation a prerequisite to number pooling. Some suggest this condition would provide an incentive for the states to implement rate center consolidation.

There is no need to twist states' arms to make them consider particular number conservation measures and no public benefit in holding one number conservation measure hostage to another. As carriers such as AT&T suggest,¹¹ number pooling is a very important way to conserve number resources, and its use where beneficial should not be made dependent on rate center consolidation. Rate center consolidation should remain within the states' discretion.

C. Decoupling of Call Rating From NXX Assignment Should Not Be Allowed to Delay the Pursuit of Other Remedies

Agreeing with MCI WorldCom that there was a need for the industry to consider "the underlying problem of associating call rating with NXX assignments,"¹² the Commission sought

¹⁰ E.g., BellSouth, p. 21; Time Warner, p. 14; Omnipoint, p. 18; Sprint, p. 22.

¹¹ AT&T, p. 35.

¹² NPRM para. 119.

comment on decoupling the two processes. Several commenters urged such separation,¹ and we agree that it at least warrants further exploration. Those efforts, however, should not be at the expense of other measures, such as pooling, that can be expected to reduce the demand for NXX codes much more expeditiously. Once thousands-block pooling is in place, further efficiencies through decoupling could be pursued if warranted.

III. TEN-DIGIT DIALING SHOULD NOT BE MANDATED

Many commenters, primarily carriers, support mandatory ten-digit dialing as a means of making protected NXX codes available for assignment.² By doing so, ten-digit dialing at best increases the supply of codes; but, as we noted in our initial comments, the existing supply of usable telephone numbers in the North American Numbering Plan, given seven-digit dialing, is about six billion, or about 20 numbers per capita. Mandatory ten-digit dialing would increase the latter figure to about 25 numbers per capita, hardly a needed step. (It is noteworthy in this regard that most commenters object to "expanding the D digit"³ as a means of augmenting the number supply,

¹ E.g., MCI WorldCom, p. 23; Liberty Telecom, p. 3; Nextel, p. 15.

² NYDPS continues to object to mandated 10-digit dialing as a precondition to an overlay area code. New York Department of Public Service Petition for Expedited Waiver of 47 C.F.R. Section 52.19(c)(3)(ii), NSD File No. L-98-04 - Petition for Reconsideration Pending.

³ I.e., allowing 0 or 1 to be used as the first digit in an NXX code, effectively converting it to an XXX code.

presumably sharing our judgment that the existing theoretical supply is adequate.) The challenge is to ensure that the existing number supply is used more efficiently. Ten-digit dialing does not contribute to that effort.

The proponents of ten-digit dialing submitted no cost-benefit analyses to support its implementation and made no showing that it would obviate changes in the way numbers are now assigned to carriers. While ten-digit dialing would add another 200 NXXs to each area code, those codes would quickly be consumed by the inefficient 10,000-number block assignment method now in place, and the effect on premature area code relief would be too small to be noticed.

In addition to the arguments against mandatory ten-digit dialing set forth in detail in our initial comments,¹ we add here our concern about the situations, cited by some states,² in which the use of an overlay area code may be reconsidered because of public dissatisfaction with the ten-digit dialing now required to accompany it. If a state has determined, on the basis of factors unique to a particular area, that its residents' interests are better served by an overlay area code than by a geographic split, that determination should not be frustrated by the need to avoid the public outcry triggered by a ten-digit dialing requirement. Considerations such as these reactions provide further reason to avoid a federal mandate in this area,

¹ Pp. 17-19.

² E.g., California Commission, p. 25.

and to leave the matter for decision by state commissions on a case-by-case basis.

Respectfully submitted,

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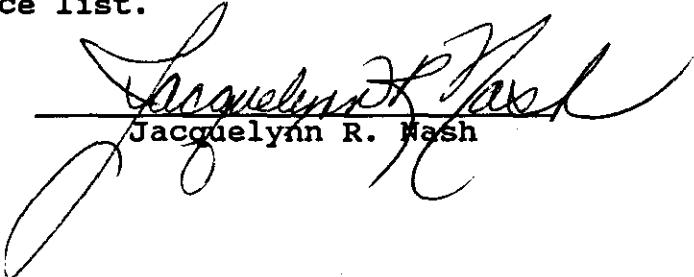
Dated: August 30, 1999
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Connecticut Department of Public Utility Control) RM No. 9258
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California Public Utilities Commission and the People of the State of California Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code) NSD File No. L-99-36

CERTIFICATE OF SERVICE

I, Jacquelynn R. Nash, hereby certify that an original and four (4) copies of reply comments in the above-captioned proceeding were sent via Airborne Express to Magalie Roman Salas, Secretary of the Federal Communications Commission. In addition, a copy was filed using the Commission's Electronic Filing System and copies were sent via first class mail, postage prepaid, to all parties on the attached service list.



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